

HOUSE BILL NO. 314

INTRODUCED BY R. NELSON, EUDAILY, PETERSON,
PECK, MOORE, BLAYLOCK, NATHE, WALKER

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

IN THE HOUSE

JANUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 20, 1989	FIRST READING.
FEBRUARY 3, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 4, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 6, 1989	ENGROSSING REPORT.
FEBRUARY 7, 1989	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1989	SECOND READING, CONCURRED IN.
MARCH 4, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 4, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 314
 2 INTRODUCED BY R. Nelson Edw. Peterson Beck Nelson
 3 Blaylock NATHAN
 4 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING
 7 THE DEFINITION OF "EARNED COMPENSATION" TO INCLUDE AMOUNTS
 8 PAID UNDER CAFETERIA PLANS; ALLOWING SUBSTITUTE TEACHERS TO
 9 QUALIFY SUBSTITUTE SERVICE; CLARIFYING AND DEFINING THE
 10 FIRST FULL YEAR'S TEACHING SALARY USED IN THE CALCULATION OF
 11 CREDITABLE SERVICE; CLARIFYING THE CALCULATION OF SURVIVOR
 12 BENEFITS; INCREASING THE MINOR CHILD BENEFIT FROM \$100 TO
 13 \$200 A MONTH; AMENDING SECTIONS 19-4-101, 19-4-302,
 14 19-4-401, 19-4-1001, AND 19-4-1002, MCA; AND PROVIDING AN
 15 APPLICABILITY DATE AND AN EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 19-4-101, MCA, is amended to read:

19 "19-4-101. Definitions. As used in this chapter,
 20 unless the context clearly indicates otherwise, the
 21 following definitions apply:

22 (1) "Accumulated contributions" means the sum of all
 23 the amounts deducted from the compensation of a member or
 24 paid by a member and credited to his individual account in
 25 the annuity savings fund, together with interest. Regular

1 interest shall be computed and allowed to provide a benefit
 2 at the time of retirement.

3 (2) "Actuarial equivalent" means a benefit of equal
 4 value when computed, with regular interest, on the basis of
 5 the 1971 Group Annuity Mortality Table, with ages set back 4
 6 years and an interest rate of 8% compounded annually.

7 (3) "Annuity" means the payments made to a beneficiary
 8 for life which are derived from a member's accumulated
 9 contributions.

10 (4) "Annuity reserve" means the present value of all
 11 payments to be made on account of a member's annuity
 12 computed, with regular interest, on the basis of the
 13 mortality tables adopted by the retirement board.

14 (5) (a) "Average final compensation" means the average
 15 of the earned compensation of a member during the 3
 16 consecutive years of full-time service which yield the
 17 highest average and on which contributions have been made as
 18 required by 19-4-602. If the earned compensation includes
 19 any termination pay, the member shall select one of the
 20 following options:

21 (i) use the total termination pay in the calculation
 22 of the average final compensation. The member and the
 23 employer shall pay such contributions to the retirement
 24 system as are determined by the board to adequately
 25 compensate the system for the additional retirement benefit.

1 The contributions must be made at the time the termination
2 pay is received.

3 (ii) use a yearly amount of termination pay added to
4 each of the 3 consecutive years' salary used in the
5 calculation of the average final compensation, if the member
6 has 4 or more years of service with the employer from which
7 the termination pay was received. The amount of such
8 compensation used in the calculation of average final
9 compensation must be divided by the total number of years of
10 creditable service to determine a yearly amount. The member
11 and the employer must pay contributions on the termination
12 pay according to the rates provided for in 19-4-602(1) and
13 19-4-605(1).

14 (iii) exclude the termination pay from the average
15 final compensation. No contribution is required of either
16 the employer or member.

17 (b) For purposes of this subsection, termination pay
18 includes any form of termination pay or any lump-sum payment
19 for deferred compensation, sick leave, or accumulated
20 vacation credit, or any other payment for time not worked
21 other than compensation received while on sick leave or
22 authorized leave of absence.

23 (6) "Beneficiary" means a person in receipt of a
24 pension, annuity, retirement allowance, or other benefit
25 provided by the retirement system.

1 (7) "Creditable service" is that service defined by
2 19-4-401.

3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
5 retirement system, including amounts paid under a salary
6 reduction agreement to, a cafeteria plan, a tax sheltered
7 annuity or, a deferred compensation program, and the value
8 of any housing provided by the employer. The employer shall
9 fix the value of any housing provided. The term does not
10 include any other amounts paid in kind or fringe benefits
11 not actually paid to a member. The earned compensation of a
12 member who had less than 3 consecutive years of full-time
13 service during the 5 years preceding his retirement is the
14 compensation, pay, or salary which he would have earned had
15 his part-time service been full-time service. The earned
16 compensation of a member who is awarded a disability
17 retirement allowance prior to the completion of a full year
18 is the compensation, pay, or salary which he would have
19 received had he completed the full year, except that any
20 termination pay, as defined in subsection (5)(b), received
21 by the member is limited to the amount actually paid and is
22 not the amount he would have earned had he completed the
23 full year.

24 (9) "Employer" means the state of Montana, the
25 trustees of a district, or any other agency or subdivision

1 of the state which employs a person who is designated a
2 member of the retirement system.

3 (10) "Full-time service" means service which is
4 full-time and which extends over a normal academic year of
5 at least 9 months. With respect to those members employed by
6 the office of the superintendent of public instruction, any
7 other state agency or institution, or the office of a county
8 superintendent, "full-time service" means service which is
9 full-time and which totals at least 9 months in any one
10 year.

11 (11) "Member" means a person who has an individual
12 account in the annuity savings fund. An active member is a
13 person included under the provisions of 19-4-302. An
14 inactive member is a person included under the provisions of
15 19-4-303.

16 (12) "Part-time service" means service which is less
17 than full-time or which totals less than 9 months in any one
18 year. Part-time service shall be credited in the proportion
19 that the actual time worked bears to full-time service.

20 (13) "Pension" means the payments made to a beneficiary
21 for life which are paid out of the pension accumulation
22 fund.

23 (14) "Pension reserve" means the present value of all
24 payments to be made on account of a pension computed, with
25 regular interest, on the basis of the mortality tables

1 adopted by the retirement board.

2 (15) "Prior service" means employment of the same
3 nature as service defined in subsection (20) of this section
4 but rendered before September 1, 1937.

5 (16) "Regular interest" means interest at 4% per annum
6 compounded annually or at such other rate as may be set by
7 the retirement board in accordance with 19-4-501(2).

8 (17) "Retirement allowance" means the annuity plus the
9 pension.

10 (18) "Retirement board" means the retirement system's
11 governing board provided for in 2-15-1010.

12 (19) "Retirement system" means the teachers' retirement
13 system of the state of Montana provided for in 19-4-102.

14 (20) "Service" means the performance of such
15 instructional duties or related activities as would entitle
16 the person to active membership in the retirement system
17 under the provisions of 19-4-302."

18 **Section 2.** Section 19-4-302, MCA, is amended to read:

19 "19-4-302. Active membership. (1) Unless otherwise
20 provided by this chapter, the following persons must be
21 active members of the retirement system, with the exception
22 that those persons who became eligible for membership on
23 September 1, 1937, or on September 1, 1939, and who elected
24 not to become members under the provisions of the law at
25 that time are not required to be members:

1 (a) any person who is a teacher, principal, or
2 district superintendent as defined in 20-1-101;

3 (b) any person who is an administrative officer or a
4 member of the instructional or scientific staff of:

5 (i) a vocational-technical center; or

6 (ii) a unit of the Montana university system and who
7 has not elected to participate in the optional retirement
8 program under Title 19, chapter 21;

9 (c) any person employed as a speech therapist, school
10 nurse, or school psychologist or in an instructional
11 services capacity by the office of the superintendent of
12 public instruction, the office of a county superintendent, a
13 special education cooperative, a public institution of the
14 state of Montana, the Montana state school for the deaf and
15 blind, or a school district;

16 (d) any person who is an administrative officer or a
17 member of the instructional staff of the board of public
18 education;

19 (e) any person who has elected not to become a member
20 of the retirement system and is reentering service in a
21 capacity prescribed by (a), (b), (c), or (d) of this
22 subsection (1);

23 (f) any person who has elected not to become a member
24 of the retirement system, who has been continuously employed
25 in a capacity prescribed by (a), (b), (c), or (d) of this

1 subsection (1) since the time of such election, and who may
2 thereafter elect to become a member of the retirement
3 system.

4 (2) In order to be eligible for active membership, any
5 person described in subsection (1) must:

6 (a) be employed in the capacity prescribed for his
7 eligibility for at least 30 days in any fiscal year; and

8 (b) have the compensation for his creditable service
9 totally paid by an employer as defined herein.

10 (3) (a) A substitute teacher:

11 (i) may elect to become an active member of the
12 retirement system on the first day of employment in any
13 fiscal year; or

14 (ii) shall become an active member of the retirement
15 system on the 31st day of employment in any fiscal year if
16 he has not elected membership under subsection (3)(a)(i).

17 (b) The employer shall give written notification to a
18 substitute teacher on his first day of employment in any
19 fiscal year of his option to elect membership under
20 subsection (3)(a)(i).

21 (4) A substitute teacher who did not elect membership
22 under subsection (3)(a)(i) and subsequently becomes a member
23 must be awarded creditable service for his substitute
24 teaching service if he contributes:

25 (a) an amount equal to the combined employee and

employer contributions that would have been made if he had elected membership; plus

(b) interest at the rate the contributions would have earned if they had been on deposit with the retirement system.

~~f4~~(5) At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 3. Section 19-4-401, MCA, is amended to read:

"19-4-401. Creditable service. (1) The creditable service of a member begins on the date of his employment in a capacity prescribed for his eligibility in 19-4-302 and accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

(2) The creditable service of a member includes the following:

(a) each year of service for which contributions to the retirement system were deducted from his compensation under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, this chapter, and their subsequent amendments, except that no credit may be awarded for those years of service for which the contributions have been withdrawn and not replaced;

(b) any service awarded by a prior service certificate

issued under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, and their subsequent amendments or under the provisions of 19-4-406;

(c) any out-of-state employment service awarded by the retirement board under the provisions of 19-4-402;

(d) any service awarded for employment while on leave under 19-4-403;

(e) any service in the military, red cross, or merchant marine awarded by the retirement board under 19-4-404;

(f) any employment service awarded by the retirement board under the provisions of 19-4-408;

(g) any service awarded by the retirement board for extension service employment under 19-4-410; and

(h) any service awarded for absence due to employment-related injury under 19-4-411.

(3) The retirement board's determination of creditable service under this section is final and conclusive for the purposes of the retirement system unless, at any time, the board discovers an error or fraud in the establishment of creditable service, in which case the board shall redetermine the creditable service.

(4) For a member completing only part-time service during the qualifying period, the first full year's teaching salary used to calculate the cost to purchase creditable

1 service is the salary that he would have earned if his first
 2 year part-time salary had been full-time."

3 **Section 4.** Section 19-4-1001, MCA, is amended to read:

4 "19-4-1001. Allowances for death of member. (1) If a
 5 member dies before retirement, his accumulated contributions
 6 shall be paid to his estate or such person as he may have
 7 nominated by a written designation filed with the retirement
 8 board prior to his death in the manner prescribed by the
 9 board.

10 (2) (a) In lieu of benefits provided for in subsection
 11 (1), if the deceased member qualified by reason of service
 12 for a retirement benefit, the beneficiary nominated by the
 13 deceased member may elect to receive a monthly life annuity.
 14 The monthly life annuity shall be determined as prescribed
 15 in 19-4-802, 19-4-804(1), and section 5, Chapter 549, Laws
 16 of 1981, in the same manner as if the member elected option
 17 A provided for in 19-4-702(2)(a).

18 (b) In the event payments made to an annuitant do not
 19 equal the amount of the member's accumulated contributions
 20 prior to the annuitant's death, the difference between the
 21 total annuity payments made and the amount of the
 22 accumulated contributions shall be paid to the beneficiary.

23 (3) If the deceased member had 5 or more years of
 24 creditable service and was an active member in the state of
 25 Montana within 1 year prior to his death, a lump-sum death

1 benefit of \$500 is payable to his designated beneficiary.

2 (4) If a deceased member had 5 or more years of
 3 creditable service and was an active member in the state of
 4 Montana within 1 year prior to his death, the sum of \$100
 5 \$200 per month shall be paid to each minor child of the
 6 deceased member until such child reaches his 18th birthday."

7 **Section 5.** Section 19-4-1002, MCA, is amended to read:

8 "19-4-1002. Payments upon death of retiree. (1) In the
 9 event of the death of a member after retirement, a death
 10 benefit of \$500 is payable to his designated beneficiary.

11 (2) In the event payments made to an annuitant do not
 12 equal the amount of the member's accumulated contributions
 13 prior to the annuitant's death, the difference between the
 14 total retirement allowance paid and the amount of the
 15 accumulated contributions shall be paid to the beneficiary.

16 (3) If a deceased member had 5 or more years of
 17 creditable service and was retired at the time of his death,
 18 the sum of \$100 \$200 per month shall be paid to each minor
 19 child of the deceased member until such child reaches his
 20 18th birthday."

21 NEW SECTION. **Section 6.** Extension of authority. Any
 22 existing authority to make rules on the subject of the
 23 provisions of [this act] is extended to the provisions of
 24 [this act].

25 NEW SECTION. **Section 7.** Applicability. [Sections 3(4)

LC 0140/01

1 and 4] apply to minor children receiving benefits under
2 19-4-1001 and 19-4-1002 on or after July 1, 1989.

3 NEW SECTION. **Section 8.** Effective date. [This act] is
4 effective July 1, 1989.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 House BILL NO. 314
2 INTRODUCED BY R. Nelson, E. L. Nelson, S. Peterson, G. Pack 1/16/68
3 Blaylock BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
4 W. Nelson

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING
7 THE DEFINITION OF "EARNED COMPENSATION" TO INCLUDE AMOUNTS
8 PAID UNDER CAFETERIA PLANS; ALLOWING SUBSTITUTE TEACHERS TO
9 QUALIFY SUBSTITUTE SERVICE; CLARIFYING AND DEFINING THE
10 FIRST FULL YEAR'S TEACHING SALARY USED IN THE CALCULATION OF
11 CREDITABLE SERVICE; CLARIFYING THE CALCULATION OF SURVIVOR
12 BENEFITS; INCREASING THE MINOR CHILD BENEFIT FROM \$100 TO
13 \$200 A MONTH; AMENDING SECTIONS 19-4-101, 19-4-302,
14 19-4-401, 19-4-1001, AND 19-4-1002, MCA; AND PROVIDING AN
15 APPLICABILITY DATE AND AN EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 19-4-101, MCA, is amended to read:

19 "19-4-101. Definitions. As used in this chapter,
20 unless the context clearly indicates otherwise, the
21 following definitions apply:

22 (1) "Accumulated contributions" means the sum of all
23 the amounts deducted from the compensation of a member or
24 paid by a member and credited to his individual account in
25 the annuity savings fund, together with interest. Regular

1 interest shall be computed and allowed to provide a benefit
2 at the time of retirement.

3 (2) "Actuarial equivalent" means a benefit of equal
4 value when computed, with regular interest, on the basis of
5 the 1971 Group Annuity Mortality Table, with ages set back 4
6 years and an interest rate of 8% compounded annually.

7 (3) "Annuity" means the payments made to a beneficiary
8 for life which are derived from a member's accumulated
9 contributions.

10 (4) "Annuity reserve" means the present value of all
11 payments to be made on account of a member's annuity
12 computed, with regular interest, on the basis of the
13 mortality tables adopted by the retirement board.

14 (5) (a) "Average final compensation" means the average
15 of the earned compensation of a member during the 3
16 consecutive years of full-time service which yield the
17 highest average and on which contributions have been made as
18 required by 19-4-602. If the earned compensation includes
19 any termination pay, the member shall select one of the
20 following options:

21 (i) use the total termination pay in the calculation
22 of the average final compensation. The member and the
23 employer shall pay such contributions to the retirement
24 system as are determined by the board to adequately
25 compensate the system for the additional retirement benefit.

1 The contributions must be made at the time the termination
2 pay is received.

3 (ii) use a yearly amount of termination pay added to
4 each of the 3 consecutive years' salary used in the
5 calculation of the average final compensation, if the member
6 has 4 or more years of service with the employer from which
7 the termination pay was received. The amount of such
8 compensation used in the calculation of average final
9 compensation must be divided by the total number of years of
10 creditable service to determine a yearly amount. The member
11 and the employer must pay contributions on the termination
12 pay according to the rates provided for in 19-4-602(1) and
13 19-4-605(1).

14 (iii) exclude the termination pay from the average
15 final compensation. No contribution is required of either
16 the employer or member.

17 (b) For purposes of this subsection, termination pay
18 includes any form of termination pay or any lump-sum payment
19 for deferred compensation, sick leave, or accumulated
20 vacation credit, or any other payment for time not worked
21 other than compensation received while on sick leave or
22 authorized leave of absence.

23 (6) "Beneficiary" means a person in receipt of a
24 pension, annuity, retirement allowance, or other benefit
25 provided by the retirement system.

1 (7) "Creditable service" is that service defined by
2 19-4-401.

3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
5 retirement system, including amounts paid under a salary
6 reduction agreement to, a cafeteria plan, a tax sheltered
7 annuity or, a deferred compensation program, and the value
8 of any housing provided by the employer. The employer shall
9 fix the value of any housing provided. The term does not
10 include any other amounts paid in kind or fringe benefits
11 not actually paid to a member. The earned compensation of a
12 member who had less than 3 consecutive years of full-time
13 service during the 5 years preceding his retirement is the
14 compensation, pay, or salary which he would have earned had
15 his part-time service been full-time service. The earned
16 compensation of a member who is awarded a disability
17 retirement allowance prior to the completion of a full year
18 is the compensation, pay, or salary which he would have
19 received had he completed the full year, except that any
20 termination pay, as defined in subsection (5)(b), received
21 by the member is limited to the amount actually paid and is
22 not the amount he would have earned had he completed the
23 full year.

24 (9) "Employer" means the state of Montana, the
25 trustees of a district, or any other agency or subdivision

1 of the state which employs a person who is designated a
2 member of the retirement system.

3 (10) "Full-time service" means service which is
4 full-time and which extends over a normal academic year of
5 at least 9 months. With respect to those members employed by
6 the office of the superintendent of public instruction, any
7 other state agency or institution, or the office of a county
8 superintendent, "full-time service" means service which is
9 full-time and which totals at least 9 months in any one
10 year.

11 (11) "Member" means a person who has an individual
12 account in the annuity savings fund. An active member is a
13 person included under the provisions of 19-4-302. An
14 inactive member is a person included under the provisions of
15 19-4-303.

16 (12) "Part-time service" means service which is less
17 than full-time or which totals less than 9 months in any one
18 year. Part-time service shall be credited in the proportion
19 that the actual time worked bears to full-time service.

20 (13) "Pension" means the payments made to a beneficiary
21 for life which are paid out of the pension accumulation
22 fund.

23 (14) "Pension reserve" means the present value of all
24 payments to be made on account of a pension computed, with
25 regular interest, on the basis of the mortality tables

1 adopted by the retirement board.

2 (15) "Prior service" means employment of the same
3 nature as service defined in subsection (20) of this section
4 but rendered before September 1, 1937.

5 (16) "Regular interest" means interest at 4% per annum
6 compounded annually or at such other rate as may be set by
7 the retirement board in accordance with 19-4-501(2).

8 (17) "Retirement allowance" means the annuity plus the
9 pension.

10 (18) "Retirement board" means the retirement system's
11 governing board provided for in 2-15-1010.

12 (19) "Retirement system" means the teachers' retirement
13 system of the state of Montana provided for in 19-4-102.

14 (20) "Service" means the performance of such
15 instructional duties or related activities as would entitle
16 the person to active membership in the retirement system
17 under the provisions of 19-4-302."

18 **Section 2.** Section 19-4-302, MCA, is amended to read:

19 **"19-4-302. Active membership.** (1) Unless otherwise
20 provided by this chapter, the following persons must be
21 active members of the retirement system, with the exception
22 that those persons who became eligible for membership on
23 September 1, 1937, or on September 1, 1939, and who elected
24 not to become members under the provisions of the law at
25 that time are not required to be members:

1 (a) any person who is a teacher, principal, or
 2 district superintendent as defined in 20-1-101;
 3 (b) any person who is an administrative officer or a
 4 member of the instructional or scientific staff of:
 5 (i) a vocational-technical center; or
 6 (ii) a unit of the Montana university system and who
 7 has not elected to participate in the optional retirement
 8 program under Title 19, chapter 21;
 9 (c) any person employed as a speech therapist, school
 10 nurse, or school psychologist or in an instructional
 11 services capacity by the office of the superintendent of
 12 public instruction, the office of a county superintendent, a
 13 special education cooperative, a public institution of the
 14 state of Montana, the Montana state school for the deaf and
 15 blind, or a school district;
 16 (d) any person who is an administrative officer or a
 17 member of the instructional staff of the board of public
 18 education;
 19 (e) any person who has elected not to become a member
 20 of the retirement system and is reentering service in a
 21 capacity prescribed by (a), (b), (c), or (d) of this
 22 subsection (1);
 23 (f) any person who has elected not to become a member
 24 of the retirement system, who has been continuously employed
 25 in a capacity prescribed by (a), (b), (c), or (d) of this

1 subsection (1) since the time of such election, and who may
 2 thereafter elect to become a member of the retirement
 3 system.
 4 (2) In order to be eligible for active membership, any
 5 person described in subsection (1) must:
 6 (a) be employed in the capacity prescribed for his
 7 eligibility for at least 30 days in any fiscal year; and
 8 (b) have the compensation for his creditable service
 9 totally paid by an employer as defined herein.
 10 (3) (a) A substitute teacher:
 11 (i) may elect to become an active member of the
 12 retirement system on the first day of employment in any
 13 fiscal year; or
 14 (ii) shall become an active member of the retirement
 15 system on the 31st day of employment in any fiscal year if
 16 he has not elected membership under subsection (3)(a)(i).
 17 (b) The employer shall give written notification to a
 18 substitute teacher on his first day of employment in any
 19 fiscal year of his option to elect membership under
 20 subsection (3)(a)(i).
 21 (4) A substitute teacher who did not elect membership
 22 under subsection (3)(a)(i) and subsequently becomes a member
 23 must be awarded creditable service for his substitute
 24 teaching service if he contributes:
 25 (a) an amount equal to the combined employee and

1 employer contributions that would have been made if he had
2 elected membership; plus

3 (b) interest at the rate the contributions would have
4 earned if they had been on deposit with the retirement
5 system.

6 ~~(4)~~(5) At any time a person's eligibility to become a
7 member of the retirement system is in doubt, the retirement
8 board shall determine his eligibility for membership. All
9 persons in similar circumstances shall be treated alike."

10 **Section 3.** Section 19-4-401, MCA, is amended to read:

11 "19-4-401. Creditable service. (1) The creditable
12 service of a member begins on the date of his employment in
13 a capacity prescribed for his eligibility in 19-4-302 and
14 accumulates to the member's credit on the basis of the
15 retirement board's policy governing creditable service.

16 (2) The creditable service of a member includes the
17 following:

18 (a) each year of service for which contributions to
19 the retirement system were deducted from his compensation
20 under the provisions of Chapter 87, Laws of 1937, Chapter
21 215, Laws of 1939, this chapter, and their subsequent
22 amendments, except that no credit may be awarded for those
23 years of service for which the contributions have been
24 withdrawn and not replaced;

25 (b) any service awarded by a prior service certificate

1 issued under the provisions of Chapter 87, Laws of 1937,
2 Chapter 215, Laws of 1939, and their subsequent amendments
3 or under the provisions of 19-4-406;

4 (c) any out-of-state employment service awarded by the
5 retirement board under the provisions of 19-4-402;

6 (d) any service awarded for employment while on leave
7 under 19-4-403;

8 (e) any service in the military, red cross, or
9 merchant marine awarded by the retirement board under
10 19-4-404;

11 (f) any employment service awarded by the retirement
12 board under the provisions of 19-4-408;

13 (g) any service awarded by the retirement board for
14 extension service employment under 19-4-410; and

15 (h) any service awarded for absence due to
16 employment-related injury under 19-4-411.

17 (3) The retirement board's determination of creditable
18 service under this section is final and conclusive for the
19 purposes of the retirement system unless, at any time, the
20 board discovers an error or fraud in the establishment of
21 creditable service, in which case the board shall
22 redetermine the creditable service.

23 (4) For a member completing only part-time service
24 during the qualifying period, the first full year's teaching
25 salary used to calculate the cost to purchase creditable

1 service is the salary that he would have earned if his first
 2 year part-time salary had been full-time."

3 **Section 4.** Section 19-4-1001, MCA, is amended to read:

4 "19-4-1001. Allowances for death of member. (1) If a
 5 member dies before retirement, his accumulated contributions
 6 shall be paid to his estate or such person as he may have
 7 nominated by a written designation filed with the retirement
 8 board prior to his death in the manner prescribed by the
 9 board.

10 (2) (a) In lieu of benefits provided for in subsection
 11 (1), if the deceased member qualified by reason of service
 12 for a retirement benefit, the beneficiary nominated by the
 13 deceased member may elect to receive a monthly life annuity.
 14 The monthly life annuity shall be determined as prescribed
 15 in 19-4-802, 19-4-804(1), and section 5, Chapter 549, Laws
 16 of 1981, in the same manner as if the member elected option
 17 A provided for in 19-4-702(2)(a).

18 (b) In the event payments made to an annuitant do not
 19 equal the amount of the member's accumulated contributions
 20 prior to the annuitant's death, the difference between the
 21 total annuity payments made and the amount of the
 22 accumulated contributions shall be paid to the beneficiary.

23 (3) If the deceased member had 5 or more years of
 24 creditable service and was an active member in the state of
 25 Montana within 1 year prior to his death, a lump-sum death

1 benefit of \$500 is payable to his designated beneficiary.

2 (4) If a deceased member had 5 or more years of
 3 creditable service and was an active member in the state of
 4 Montana within 1 year prior to his death, the sum of ~~\$100~~
 5 \$200 per month shall be paid to each minor child of the
 6 deceased member until such child reaches his 18th birthday."

7 **Section 5.** Section 19-4-1002, MCA, is amended to read:

8 "19-4-1002. Payments upon death of retiree. (1) In the
 9 event of the death of a member after retirement, a death
 10 benefit of \$500 is payable to his designated beneficiary.

11 (2) In the event payments made to an annuitant do not
 12 equal the amount of the member's accumulated contributions
 13 prior to the annuitant's death, the difference between the
 14 total retirement allowance paid and the amount of the
 15 accumulated contributions shall be paid to the beneficiary.

16 (3) If a deceased member had 5 or more years of
 17 creditable service and was retired at the time of his death,
 18 the sum of ~~\$100~~ \$200 per month shall be paid to each minor
 19 child of the deceased member until such child reaches his
 20 18th birthday."

21 NEW SECTION. **Section 6.** Extension of authority. Any
 22 existing authority to make rules on the subject of the
 23 provisions of [this act] is extended to the provisions of
 24 [this act].

25 NEW SECTION. **Section 7.** Applicability. (Sections 3(4)

LC 0140/01

1 and 4] apply to minor children receiving benefits under
2 19-4-1001 and 19-4-1002 on or after July 1, 1989.

3 NEW SECTION. **Section 8.** Effective date. [This act] is
4 effective July 1, 1989.

-End-

1 *House* BILL NO. *314*
 2 INTRODUCED BY *R. Nelson, Edna Peterson, Beck, Albore*
 3 *Blaylock* BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
 4 *H. Nelson*

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING
 7 THE DEFINITION OF "EARNED COMPENSATION" TO INCLUDE AMOUNTS
 8 PAID UNDER CAFETERIA PLANS; ALLOWING SUBSTITUTE TEACHERS TO
 9 QUALIFY SUBSTITUTE SERVICE; CLARIFYING AND DEFINING THE
 10 FIRST FULL YEAR'S TEACHING SALARY USED IN THE CALCULATION OF
 11 CREDITABLE SERVICE; CLARIFYING THE CALCULATION OF SURVIVOR
 12 BENEFITS; INCREASING THE MINOR CHILD BENEFIT FROM \$100 TO
 13 \$200 A MONTH; AMENDING SECTIONS 19-4-101, 19-4-302,
 14 19-4-401, 19-4-1001, AND 19-4-1002, MCA; AND PROVIDING AN
 15 APPLICABILITY DATE AND AN EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 19-4-101, MCA, is amended to read:

19 "19-4-101. Definitions. As used in this chapter,
 20 unless the context clearly indicates otherwise, the
 21 following definitions apply:

22 (1) "Accumulated contributions" means the sum of all
 23 the amounts deducted from the compensation of a member or
 24 paid by a member and credited to his individual account in
 25 the annuity savings fund, together with interest. Regular

1 interest shall be computed and allowed to provide a benefit
 2 at the time of retirement.

3 (2) "Actuarial equivalent" means a benefit of equal
 4 value when computed, with regular interest, on the basis of
 5 the 1971 Group Annuity Mortality Table, with ages set back 4
 6 years and an interest rate of 8% compounded annually.

7 (3) "Annuity" means the payments made to a beneficiary
 8 for life which are derived from a member's accumulated
 9 contributions.

10 (4) "Annuity reserve" means the present value of all
 11 payments to be made on account of a member's annuity
 12 computed, with regular interest, on the basis of the
 13 mortality tables adopted by the retirement board.

14 (5) (a) "Average final compensation" means the average
 15 of the earned compensation of a member during the 3
 16 consecutive years of full-time service which yield the
 17 highest average and on which contributions have been made as
 18 required by 19-4-602. If the earned compensation includes
 19 any termination pay, the member shall select one of the
 20 following options:

21 (i) use the total termination pay in the calculation
 22 of the average final compensation. The member and the
 23 employer shall pay such contributions to the retirement
 24 system as are determined by the board to adequately
 25 compensate the system for the additional retirement benefit.

1 The contributions must be made at the time the termination
2 pay is received.

3 (ii) use a yearly amount of termination pay added to
4 each of the 3 consecutive years' salary used in the
5 calculation of the average final compensation, if the member
6 has 4 or more years of service with the employer from which
7 the termination pay was received. The amount of such
8 compensation used in the calculation of average final
9 compensation must be divided by the total number of years of
10 creditable service to determine a yearly amount. The member
11 and the employer must pay contributions on the termination
12 pay according to the rates provided for in 19-4-602(1) and
13 19-4-605(1).

14 (iii) exclude the termination pay from the average
15 final compensation. No contribution is required of either
16 the employer or member.

17 (b) For purposes of this subsection, termination pay
18 includes any form of termination pay or any lump-sum payment
19 for deferred compensation, sick leave, or accumulated
20 vacation credit, or any other payment for time not worked
21 other than compensation received while on sick leave or
22 authorized leave of absence.

23 (6) "Beneficiary" means a person in receipt of a
24 pension, annuity, retirement allowance, or other benefit
25 provided by the retirement system.

1 (7) "Creditable service" is that service defined by
2 19-4-401.

3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
5 retirement system, including amounts paid under a salary
6 reduction agreement to, a cafeteria plan, a tax sheltered
7 annuity or, a deferred compensation program, and the value
8 of any housing provided by the employer. The employer shall
9 fix the value of any housing provided. The term does not
10 include any other amounts paid in kind or fringe benefits
11 not actually paid to a member. The earned compensation of a
12 member who had less than 3 consecutive years of full-time
13 service during the 5 years preceding his retirement is the
14 compensation, pay, or salary which he would have earned had
15 his part-time service been full-time service. The earned
16 compensation of a member who is awarded a disability
17 retirement allowance prior to the completion of a full year
18 is the compensation, pay, or salary which he would have
19 received had he completed the full year, except that any
20 termination pay, as defined in subsection (5)(b), received
21 by the member is limited to the amount actually paid and is
22 not the amount he would have earned had he completed the
23 full year.

24 (9) "Employer" means the state of Montana, the
25 trustees of a district, or any other agency or subdivision

1 of the state which employs a person who is designated a
2 member of the retirement system.

3 (10) "Full-time service" means service which is
4 full-time and which extends over a normal academic year of
5 at least 9 months. With respect to those members employed by
6 the office of the superintendent of public instruction, any
7 other state agency or institution, or the office of a county
8 superintendent, "full-time service" means service which is
9 full-time and which totals at least 9 months in any one
10 year.

11 (11) "Member" means a person who has an individual
12 account in the annuity savings fund. An active member is a
13 person included under the provisions of 19-4-302. An
14 inactive member is a person included under the provisions of
15 19-4-303.

16 (12) "Part-time service" means service which is less
17 than full-time or which totals less than 9 months in any one
18 year. Part-time service shall be credited in the proportion
19 that the actual time worked bears to full-time service.

20 (13) "Pension" means the payments made to a beneficiary
21 for life which are paid out of the pension accumulation
22 fund.

23 (14) "Pension reserve" means the present value of all
24 payments to be made on account of a pension computed, with
25 regular interest, on the basis of the mortality tables

1 adopted by the retirement board.

2 (15) "Prior service" means employment of the same
3 nature as service defined in subsection (20) of this section
4 but rendered before September 1, 1937.

5 (16) "Regular interest" means interest at 4% per annum
6 compounded annually or at such other rate as may be set by
7 the retirement board in accordance with 19-4-501(2).

8 (17) "Retirement allowance" means the annuity plus the
9 pension.

10 (18) "Retirement board" means the retirement system's
11 governing board provided for in 2-15-1010.

12 (19) "Retirement system" means the teachers' retirement
13 system of the state of Montana provided for in 19-4-102.

14 (20) "Service" means the performance of such
15 instructional duties or related activities as would entitle
16 the person to active membership in the retirement system
17 under the provisions of 19-4-302."

18 **Section 2.** Section 19-4-302, MCA, is amended to read:

19 **"19-4-302. Active membership.** (1) Unless otherwise
20 provided by this chapter, the following persons must be
21 active members of the retirement system, with the exception
22 that those persons who became eligible for membership on
23 September 1, 1937, or on September 1, 1939, and who elected
24 not to become members under the provisions of the law at
25 that time are not required to be members:

1 (a) any person who is a teacher, principal, or
2 district superintendent as defined in 20-1-101;

3 (b) any person who is an administrative officer or a
4 member of the instructional or scientific staff of:

5 (i) a vocational-technical center; or

6 (ii) a unit of the Montana university system and who
7 has not elected to participate in the optional retirement
8 program under Title 19, chapter 21;

9 (c) any person employed as a speech therapist, school
10 nurse, or school psychologist or in an instructional
11 services capacity by the office of the superintendent of
12 public instruction, the office of a county superintendent, a
13 special education cooperative, a public institution of the
14 state of Montana, the Montana state school for the deaf and
15 blind, or a school district;

16 (d) any person who is an administrative officer or a
17 member of the instructional staff of the board of public
18 education;

19 (e) any person who has elected not to become a member
20 of the retirement system and is reentering service in a
21 capacity prescribed by (a), (b), (c), or (d) of this
22 subsection (1);

23 (f) any person who has elected not to become a member
24 of the retirement system, who has been continuously employed
25 in a capacity prescribed by (a), (b), (c), or (d) of this

1 subsection (1) since the time of such election, and who may
2 thereafter elect to become a member of the retirement
3 system.

4 (2) In order to be eligible for active membership, any
5 person described in subsection (1) must:

6 (a) be employed in the capacity prescribed for his
7 eligibility for at least 30 days in any fiscal year; and

8 (b) have the compensation for his creditable service
9 totally paid by an employer as defined herein.

10 (3) (a) A substitute teacher:

11 (i) may elect to become an active member of the
12 retirement system on the first day of employment in any
13 fiscal year; or

14 (ii) shall become an active member of the retirement
15 system on the 31st day of employment in any fiscal year if
16 he has not elected membership under subsection (3)(a)(i).

17 (b) The employer shall give written notification to a
18 substitute teacher on his first day of employment in any
19 fiscal year of his option to elect membership under
20 subsection (3)(a)(i).

21 (4) A substitute teacher who did not elect membership
22 under subsection (3)(a)(i) and subsequently becomes a member
23 must be awarded creditable service for his substitute
24 teaching service if he contributes:

25 (a) an amount equal to the combined employee and

1 employer contributions that would have been made if he had
2 elected membership; plus

3 (b) interest at the rate the contributions would have
4 earned if they had been on deposit with the retirement
5 system.

6 ~~f4~~(5) At any time a person's eligibility to become a
7 member of the retirement system is in doubt, the retirement
8 board shall determine his eligibility for membership. All
9 persons in similar circumstances shall be treated alike."

10 **Section 3.** Section 19-4-401, MCA, is amended to read:

11 "19-4-401. Creditable service. (1) The creditable
12 service of a member begins on the date of his employment in
13 a capacity prescribed for his eligibility in 19-4-302 and
14 accumulates to the member's credit on the basis of the
15 retirement board's policy governing creditable service.

16 (2) The creditable service of a member includes the
17 following:

18 (a) each year of service for which contributions to
19 the retirement system were deducted from his compensation
20 under the provisions of Chapter 87, Laws of 1937, Chapter
21 215, Laws of 1939, this chapter, and their subsequent
22 amendments, except that no credit may be awarded for those
23 years of service for which the contributions have been
24 withdrawn and not replaced;

25 (b) any service awarded by a prior service certificate

1 issued under the provisions of Chapter 87, Laws of 1937,
2 Chapter 215, Laws of 1939, and their subsequent amendments
3 or under the provisions of 19-4-406;

4 (c) any out-of-state employment service awarded by the
5 retirement board under the provisions of 19-4-402;

6 (d) any service awarded for employment while on leave
7 under 19-4-403;

8 (e) any service in the military, red cross, or
9 merchant marine awarded by the retirement board under
10 19-4-404;

11 (f) any employment service awarded by the retirement
12 board under the provisions of 19-4-408;

13 (g) any service awarded by the retirement board for
14 extension service employment under 19-4-410; and

15 (h) any service awarded for absence due to
16 employment-related injury under 19-4-411.

17 (3) The retirement board's determination of creditable
18 service under this section is final and conclusive for the
19 purposes of the retirement system unless, at any time, the
20 board discovers an error or fraud in the establishment of
21 creditable service, in which case the board shall
22 redetermine the creditable service.

23 (4) For a member completing only part-time service
24 during the qualifying period, the first full year's teaching
25 salary used to calculate the cost to purchase creditable

1 service is the salary that he would have earned if his first
 2 year part-time salary had been full-time."

3 **Section 4.** Section 19-4-1001, MCA, is amended to read:

4 "19-4-1001. Allowances for death of member. (1) If a
 5 member dies before retirement, his accumulated contributions
 6 shall be paid to his estate or such person as he may have
 7 nominated by a written designation filed with the retirement
 8 board prior to his death in the manner prescribed by the
 9 board.

10 (2) (a) In lieu of benefits provided for in subsection
 11 (1), if the deceased member qualified by reason of service
 12 for a retirement benefit, the beneficiary nominated by the
 13 deceased member may elect to receive a monthly life annuity.
 14 The monthly life annuity shall be determined as prescribed
 15 in ~~19-4-802~~, 19-4-804(1), and section 5, Chapter 549, Laws
 16 of 1981, in the same manner as if the member elected option
 17 A provided for in 19-4-702(2)(a).

18 (b) In the event payments made to an annuitant do not
 19 equal the amount of the member's accumulated contributions
 20 prior to the annuitant's death, the difference between the
 21 total annuity payments made and the amount of the
 22 accumulated contributions shall be paid to the beneficiary.

23 (3) If the deceased member had 5 or more years of
 24 creditable service and was an active member in the state of
 25 Montana within 1 year prior to his death, a lump-sum death

1 benefit of \$500 is payable to his designated beneficiary.

2 (4) If a deceased member had 5 or more years of
 3 creditable service and was an active member in the state of
 4 Montana within 1 year prior to his death, the sum of ~~\$100~~
 5 \$200 per month shall be paid to each minor child of the
 6 deceased member until such child reaches his 18th birthday."

7 **Section 5.** Section 19-4-1002, MCA, is amended to read:

8 "19-4-1002. Payments upon death of retiree. (1) In the
 9 event of the death of a member after retirement, a death
 10 benefit of \$500 is payable to his designated beneficiary.

11 (2) In the event payments made to an annuitant do not
 12 equal the amount of the member's accumulated contributions
 13 prior to the annuitant's death, the difference between the
 14 total retirement allowance paid and the amount of the
 15 accumulated contributions shall be paid to the beneficiary.

16 (3) If a deceased member had 5 or more years of
 17 creditable service and was retired at the time of his death,
 18 the sum of ~~\$100~~ \$200 per month shall be paid to each minor
 19 child of the deceased member until such child reaches his
 20 18th birthday."

21 **NEW SECTION. Section 6.** Extension of authority. Any
 22 existing authority to make rules on the subject of the
 23 provisions of [this act] is extended to the provisions of
 24 [this act].

25 **NEW SECTION. Section 7.** Applicability. [Sections 3(4)

LC.014Q/01

1 and 4] apply to minor children receiving benefits under
2 19-4-1001 and 19-4-1002 on or after July 1, 1989.

3 NEW SECTION. **Section 8.** Effective date. [This act] is
4 effective July 1, 1989.

-End-

1 HOUSE BILL NO. 314

2 INTRODUCED BY R. NELSON, EUDAILY, PETERSON,

3 PECK, MOORE, BLAYLOCK, NATHE, WALKER

4 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
7 LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING
8 THE DEFINITION OF "EARNED COMPENSATION" TO INCLUDE AMOUNTS
9 PAID UNDER CAFETERIA PLANS; ALLOWING SUBSTITUTE TEACHERS TO
10 QUALIFY SUBSTITUTE SERVICE; CLARIFYING AND DEFINING THE
11 FIRST FULL YEAR'S TEACHING SALARY USED IN THE CALCULATION OF
12 CREDITABLE SERVICE; CLARIFYING THE CALCULATION OF SURVIVOR
13 BENEFITS; INCREASING THE MINOR CHILD BENEFIT FROM \$100 TO
14 \$200 A MONTH; AMENDING SECTIONS 19-4-101, 19-4-302,
15 19-4-401, 19-4-1001, AND 19-4-1002, MCA; AND PROVIDING AN
16 APPLICABILITY DATE AND AN EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 19-4-101, MCA, is amended to read:

20 "19-4-101. Definitions. As used in this chapter,
21 unless the context clearly indicates otherwise, the
22 following definitions apply:

23 (1) "Accumulated contributions" means the sum of all
24 the amounts deducted from the compensation of a member or
25 paid by a member and credited to his individual account in

1 the annuity savings fund, together with interest. Regular
2 interest shall be computed and allowed to provide a benefit
3 at the time of retirement.

4 (2) "Actuarial equivalent" means a benefit of equal
5 value when computed, with regular interest, on the basis of
6 the 1971 Group Annuity Mortality Table, with ages set back 4
7 years and an interest rate of 8% compounded annually.

8 (3) "Annuity" means the payments made to a beneficiary
9 for life which are derived from a member's accumulated
10 contributions.

11 (4) "Annuity reserve" means the present value of all
12 payments to be made on account of a member's annuity
13 computed, with regular interest, on the basis of the
14 mortality tables adopted by the retirement board.

15 (5) (a) "Average final compensation" means the average
16 of the earned compensation of a member during the 3
17 consecutive years of full-time service which yield the
18 highest average and on which contributions have been made as
19 required by 19-4-602. If the earned compensation includes
20 any termination pay, the member shall select one of the
21 following options:

22 (i) use the total termination pay in the calculation
23 of the average final compensation. The member and the
24 employer shall pay such contributions to the retirement
25 system as are determined by the board to adequately

1 compensate the system for the additional retirement benefit.
2 The contributions must be made at the time the termination
3 pay is received.

4 (ii) use a yearly amount of termination pay added to
5 each of the 3 consecutive years' salary used in the
6 calculation of the average final compensation, if the member
7 has 4 or more years of service with the employer from which
8 the termination pay was received. The amount of such
9 compensation used in the calculation of average final
10 compensation must be divided by the total number of years of
11 creditable service to determine a yearly amount. The member
12 and the employer must pay contributions on the termination
13 pay according to the rates provided for in 19-4-602(1) and
14 19-4-605(1).

15 (iii) exclude the termination pay from the average
16 final compensation. No contribution is required of either
17 the employer or member.

18 (b) For purposes of this subsection, termination pay
19 includes any form of termination pay or any lump-sum payment
20 for deferred compensation, sick leave, or accumulated
21 vacation credit, or any other payment for time not worked
22 other than compensation received while on sick leave or
23 authorized leave of absence.

24 (6) "Beneficiary" means a person in receipt of a
25 pension, annuity, retirement allowance, or other benefit

1 provided by the retirement system.

2 (7) "Creditable service" is that service defined by
3 19-4-401.

4 (8) "Earned compensation" means the full compensation,
5 pay, or salary actually paid to a member and reported to the
6 retirement system, including amounts paid under a salary
7 reduction agreement ~~to~~, a cafeteria plan, a tax sheltered
8 annuity ~~or~~, a deferred compensation program, and the value
9 of any housing provided by the employer. The employer shall
10 fix the value of any housing provided. The term does not
11 include any other amounts paid in kind or fringe benefits
12 not actually paid to a member. The earned compensation of a
13 member who had less than 3 consecutive years of full-time
14 service during the 5 years preceding his retirement is the
15 compensation, pay, or salary which he would have earned had
16 his part-time service been full-time service. The earned
17 compensation of a member who is awarded a disability
18 retirement allowance prior to the completion of a full year
19 is the compensation, pay, or salary which he would have
20 received had he completed the full year, except that any
21 termination pay, as defined in subsection (5)(b), received
22 by the member is limited to the amount actually paid and is
23 not the amount he would have earned had he completed the
24 full year.

25 (9) "Employer" means the state of Montana, the

1 trustees of a district, or any other agency or subdivision
2 of the state which employs a person who is designated a
3 member of the retirement system.

4 (10) "Full-time service" means service which is
5 full-time and which extends over a normal academic year of
6 at least 9 months. With respect to those members employed by
7 the office of the superintendent of public instruction, any
8 other state agency or institution, or the office of a county
9 superintendent, "full-time service" means service which is
10 full-time and which totals at least 9 months in any one
11 year.

12 (11) "Member" means a person who has an individual
13 account in the annuity savings fund. An active member is a
14 person included under the provisions of 19-4-302. An
15 inactive member is a person included under the provisions of
16 19-4-303.

17 (12) "Part-time service" means service which is less
18 than full-time or which totals less than 9 months in any one
19 year. Part-time service shall be credited in the proportion
20 that the actual time worked bears to full-time service.

21 (13) "Pension" means the payments made to a beneficiary
22 for life which are paid out of the pension accumulation
23 fund.

24 (14) "Pension reserve" means the present value of all
25 payments to be made on account of a pension computed, with

1 regular interest, on the basis of the mortality tables
2 adopted by the retirement board.

3 (15) "Prior service" means employment of the same
4 nature as service defined in subsection (20) of this section
5 but rendered before September 1, 1937.

6 (16) "Regular interest" means interest at 4% per annum
7 compounded annually or at such other rate as may be set by
8 the retirement board in accordance with 19-4-501(2).

9 (17) "Retirement allowance" means the annuity plus the
10 pension.

11 (18) "Retirement board" means the retirement system's
12 governing board provided for in 2-15-1010.

13 (19) "Retirement system" means the teachers' retirement
14 system of the state of Montana provided for in 19-4-102.

15 (20) "Service" means the performance of such
16 instructional duties or related activities as would entitle
17 the person to active membership in the retirement system
18 under the provisions of 19-4-302."

19 **Section 2.** Section 19-4-302, MCA, is amended to read:

20 "19-4-302. **Active membership.** (1) Unless otherwise
21 provided by this chapter, the following persons must be
22 active members of the retirement system, with the exception
23 that those persons who became eligible for membership on
24 September 1, 1937, or on September 1, 1939, and who elected
25 not to become members under the provisions of the law at

1 that time are not required to be members:

2 (a) any person who is a teacher, principal, or
3 district superintendent as defined in 20-1-101;

4 (b) any person who is an administrative officer or a
5 member of the instructional or scientific staff of:

6 (i) a vocational-technical center; or

7 (ii) a unit of the Montana university system and who
8 has not elected to participate in the optional retirement
9 program under Title 19, chapter 21;

10 (c) any person employed as a speech therapist, school
11 nurse, or school psychologist or in an instructional
12 services capacity by the office of the superintendent of
13 public instruction, the office of a county superintendent, a
14 special education cooperative, a public institution of the
15 state of Montana, the Montana state school for the deaf and
16 blind, or a school district;

17 (d) any person who is an administrative officer or a
18 member of the instructional staff of the board of public
19 education;

20 (e) any person who has elected not to become a member
21 of the retirement system and is reentering service in a
22 capacity prescribed by (a), (b), (c), or (d) of this
23 subsection (1);

24 (f) any person who has elected not to become a member
25 of the retirement system, who has been continuously employed

1 in a capacity prescribed by (a), (b), (c), or (d) of this
2 subsection (1) since the time of such election, and who may
3 thereafter elect to become a member of the retirement
4 system.

5 (2) In order to be eligible for active membership, any
6 person described in subsection (1) must:

7 (a) be employed in the capacity prescribed for his
8 eligibility for at least 30 days in any fiscal year; and

9 (b) have the compensation for his creditable service
10 totally paid by an employer as defined herein.

11 (3) (a) A substitute teacher:

12 (i) may elect to become an active member of the
13 retirement system on the first day of employment in any
14 fiscal year; or

15 (ii) shall become an active member of the retirement
16 system on the 31st day of employment in any fiscal year if
17 he has not elected membership under subsection (3)(a)(i).

18 (b) The employer shall give written notification to a
19 substitute teacher on his first day of employment in any
20 fiscal year of his option to elect membership under
21 subsection (3)(a)(i).

22 (4) A substitute teacher who did not elect membership
23 under subsection (3)(a)(i) and subsequently becomes a member
24 must be awarded creditable service for his substitute
25 teaching service if he contributes:

(a) an amount equal to the combined employee and employer contributions that would have been made if he had elected membership; plus

(b) interest at the rate the contributions would have earned if they had been on deposit with the retirement system.

~~(4)~~(5) At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 3. Section 19-4-401, MCA, is amended to read:

"19-4-401. Creditable service. (1) The creditable service of a member begins on the date of his employment in a capacity prescribed for his eligibility in 19-4-302 and accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

(2) The creditable service of a member includes the following:

(a) each year of service for which contributions to the retirement system were deducted from his compensation under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, this chapter, and their subsequent amendments, except that no credit may be awarded for those years of service for which the contributions have been withdrawn and not replaced;

(b) any service awarded by a prior service certificate issued under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, and their subsequent amendments or under the provisions of 19-4-406;

(c) any out-of-state employment service awarded by the retirement board under the provisions of 19-4-402;

(d) any service awarded for employment while on leave under 19-4-403;

(e) any service in the military, red cross, or merchant marine awarded by the retirement board under 19-4-404;

(f) any employment service awarded by the retirement board under the provisions of 19-4-408;

(g) any service awarded by the retirement board for extension service employment under 19-4-410; and

(h) any service awarded for absence due to employment-related injury under 19-4-411.

(3) The retirement board's determination of creditable service under this section is final and conclusive for the purposes of the retirement system unless, at any time, the board discovers an error or fraud in the establishment of creditable service, in which case the board shall redetermine the creditable service.

(4) For a member completing only part-time service during the qualifying period, the first full year's teaching

salary used to calculate the cost to purchase creditable service is the salary that he would have earned if his first year part-time salary had been full-time."

Section 4. Section 19-4-1001, MCA, is amended to read:

"19-4-1001. Allowances for death of member. (1) If a member dies before retirement, his accumulated contributions shall be paid to his estate or such person as he may have nominated by a written designation filed with the retirement board prior to his death in the manner prescribed by the board.

(2) (a) In lieu of benefits provided for in subsection (1), if the deceased member qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be determined as prescribed in ~~19-4-802~~, 19-4-804(1), and section 5, Chapter 549, Laws of 1981, in the same manner as if the member elected option A provided for in 19-4-702(2)(a).

(b) In the event payments made to an annuitant do not equal the amount of the member's accumulated contributions prior to the annuitant's death, the difference between the total annuity payments made and the amount of the accumulated contributions shall be paid to the beneficiary.

(3) If the deceased member had 5 or more years of creditable service and was an active member in the state of

Montana within 1 year prior to his death, a lump-sum death benefit of \$500 is payable to his designated beneficiary.

(4) If a deceased member had 5 or more years of creditable service and was an active member in the state of Montana within 1 year prior to his death, the sum of ~~\$100~~ \$200 per month shall be paid to each minor child of the deceased member until such child reaches his 18th birthday."

Section 5. Section 19-4-1002, MCA, is amended to read:

"19-4-1002. Payments upon death of retiree. (1) In the event of the death of a member after retirement, a death benefit of \$500 is payable to his designated beneficiary.

(2) In the event payments made to an annuitant do not equal the amount of the member's accumulated contributions prior to the annuitant's death, the difference between the total retirement allowance paid and the amount of the accumulated contributions shall be paid to the beneficiary.

(3) If a deceased member had 5 or more years of creditable service and was retired at the time of his death, the sum of ~~\$100~~ \$200 per month shall be paid to each minor child of the deceased member until such child reaches his 18th birthday."

NEW SECTION. Section 6. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

1 NEW SECTION. **Section 7.** Applicability. [Sections 3(4)
2 and 4] apply to minor children receiving benefits under
3 19-4-1001 and 19-4-1002 on or after July 1, 1989.
4 NEW SECTION. **Section 8.** Effective date. [This act] is
5 effective July 1, 1989.

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